IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION No. 14143 of 2004

Between:

1 B. Shaeshtha D/o Roshan Khan,
EDCET 2003-04, 25688, Methodology: Social Studies, R/o Plot No. 10,

Saidatta Gardens Bhoodevi Nagar, Secunderabad.
2 Md. Moinuddin S/o Md.Mumtaz Miyan
EDCET 2003-04, 19885, Methodology: Social Studies
R/o H. No. 4-67, Allipur (V) Zeheerabad.
3 Md. Ismail S/o Md Abdul Sattar,
EDCET 2003-04 72267, Methodology: Social Studies (Physically

Handicapped Reservation Category) R/o H. No. 5-2-305, Shanthi

Nagar Zaheerabad.
4 Qamar Unnisa D/o M.A. Razzak
EDCET 2003-04 33623, Methodology: Mathematics R/o H.No.
1-8-518/G Patigadda Colony, Secunderabad.

..... PETITIONERS

AND

1 Government of Andhra Pradesh, rep. by Principal Secretary, Education

(SE TRG.1) Department, Secretariat, Hyderabad.
2 A.P. State Council for Higher Education, rep by Secretary, Hyderabad.

3 District Education Officer, Hyderabad District, Nampally Hyderabad.
4 Osmania University, rep by Registrar, Hyderabad.
5 Anwarul Uloom College of Education rep. by Secretary and

Correspondent, Malakpet, Hyderabad.

6 Tayyaba Begum, EDCET Rank No. 73592, Methodology: Social Studies

C/o Principal, Anwarul Uloom College of Education, Malakpet,

Hyderabad.
7 Md. Ayub, EDCET Rank No. 94447, Methodology: Social Studies
C/o Principal, Anwarul Uloom College of Eduation Malakpet Hyderabad.
8 Razi Ahmed, EDCET Rank No. 94098, Methodology: Social Studies
C/o Principal, Anwarul Uloom College of Education, Malakpet,

Hyderabad
9 Naseena Butul, EDCET Rank No. 46493, Methodology: Mathematics,
C/o Principal, Anwarul Uloom College of Education, Malakpet,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly in the nature of Writ of Mandamus declaring the inaction on the part of Respondents
1 to 4 to see that the admissions to the B.Ed. course for Academic Year 2003-2004 into Respondent No.5 College are made based only on merit and as per G.O.Rt. No.169 dated 5-2-2004 issued by Respondent No.1 and the action of Respondent No.5 in denying admission to the petitioners as unconstitutional and illegal and consequently declare that the petitioners are entitled to be admitted into Respondent No.5 college B.Ed. course for Academic year 2003-2004 while directing the Respondents 1 to 6 to take steps to admit the petitioners to B.Ed. Course for Academic year 2003-2004 in Respondent No.5 college.

Counsel for the Petitioners : Mr.K.S.MURTHY

Counsel for Respondents 1 & 3: G.P. FOR EDUCATION

Counsel for Respondent No.2 : Mr.K.RAMESH BABU

Counsel for Respondent No.5 : Mr.S.NIRANJAN REDDY

Counsel for Respondents 6 to 9: Mr.T.SRIKANTH REDDY

The Court made the following :

ORDER:

In this writ petition, the petitioners challenge the procedure adopted by the fifth respondent College in admitting the students into B.Ed. course for the academic

year 2003-2004 contrary to the Rules issued in G.O.Rt.No.169 Education (SE.TRG.I) Department dated 5.2.2004 which resulted in denying admissions to the petitioners, and seek to issue a writ of mandamus declaring that the petitioners are entitled to be admitted into B.Ed. course offered by the fifth respondent college.

The Government vide G.O.Rt.No.169 dated 5.2.2004 issued ad hoc rules for admission of students into B.Ed. course in aided and unaided minority colleges of education in the State for the academic year 2003-2004. Rule 10 prescribes the admission process in Minority Colleges, which has to be followed by the fifth respondent college. The said rule provides transparency measures to be followed for 85/70% seats to be filled by the managements of unaided/aided Minority Colleges of Education respectively. A notification has to be issued in the local newspaper duly mentioning the number of seats available methodology- wise inviting applications from the candidates eligible and qualified in Ed-CET 2003 and the copies of the said notification should be submitted to the District Educational Officer and also Commissioner and Director of School Education. On receipt of the applications, the District Educational Officer shall prepare the total list of all the applicants and shall forward the applications along with the list to the concerned college. Under sub-rule (vii) of Rule 10, the merit list should be displayed at the College, District Educational Officer's office and also on the website *www.aponline.gov.in* one week before the admission of the candidates. Sub-rule (viii) provides that admissions should be made as per the admission schedule to be issued by the Commissioner and Director of School Education. Under sub-rule (xi), the first list of candidates provisionally selected methodology-wise should be displayed on the notice board of the College and also at the office of the District Educational Officer and should also made available on the website and the candidates should be informed well in advance. Sub-rule (xii) envisages that in case all the candidates selected are not reported for taking admission on the scheduled date, the unfilled seats may be filled up through second and third lists respectively strictly as per rules. Sub-rule (xiii) provides, even if in the third list also, if all the seats could not be filled up, they should be filed through spot admissions on the scheduled date issued by the Commissioner and Director of School Education. It is not in dispute that the Commissioner and Director of School Education issued the schedule for admission of the candidates into B.Ed. course. According to the said schedule, third list of selected minority candidates has to be displayed on 8.7.2004

and their admission date is fixed on 12.7.2004. The note appended to the said schedule discloses that separate schedule will be announced later if any seats are still vacant for spot admissions.

The learned counsel for petitioners submits that the petitioners have made representations dated 22.7.2004 and 7.8.2004 to the third respondent stating that the fifth respondent has admitted the students on his own without following the procedure, and since no action was forthcoming, they filed the present writ petition.

The third respondent filed counter affidavit on behalf of respondents 1 to 3 stating that the fifth respondent College has not submitted the third merit list for display at the DEO's office and as per clause 10(xiii) of G.O.Ms.No.169 dated 5.2.2004, if in the third list also, all the seats could not be filled up, they should be filled through spot admissions on the scheduled date fixed by the Commissioner and Director of School Education. Since there was no information as to whether the management of fifth respondent college has followed the provisions of Clause 10(xiii), the available seats for spot admission were not notified. The first and second list submitted by the management shows that merit has been followed. If the fifth respondent college admits non-minority candidates, the roster reservation has to be followed, but there was no information regarding the admissions made by the College as the same were not communicated to the DEO.

In the counter and additional counter by way of rejoinder to reply filed by the fifth respondent, it is stated that the fifth respondent is justified in filling up the vacancies. It is stated that in terms of the guidelines prescribed in G.O.Rt.No.169, after receiving the applications, a common merit list of all the applicants was prepared and out of the total intake capacity of 160 students, keeping apart 24 seats (15%) towards management quota, the first list of 136 students for admissions was notified on 21.6.2004 as per procedures and admissions were made as per the list made on 26.6.2004. Out of selected 136 students, 33 students took admission on 26.6.2004. Thereafter, second list was prepared on 28.6.2004 for the remaining 103 seats and the same was displayed at the DEO's office and at fifth respondent college. Admissions were made as per second list on 2.7.2004 and out of 103 students, 38 students joined the college, which resulted in preparation of third list for the balance 65 seats and the same was displayed on 8.7.2004 as per the schedule. In the admissions made from the third list on 12.7.2004,
7 students shown in the third list reported and took admission. The left over 58 seats

were to be filled up and accordingly in the spot admissions conducted on 13th and 14th July 2004, the same were filled. It is further averred that in the spot admissions, candidates were selected as per the merit list, and since there is no specific procedure to be adopted for the purpose of spot admissions and as the DEO has not notified the date of spot admission, the same were filled up like the other colleges, which is a practice in vogue.

Counter affidavits have been filed on behalf of respondents 6 to 9 who are students admitted by the fifth respondent college. It is stated that respondents 7 to 9 were admitted under the management quota and sixth respondent alone was admitted in the spot admissions.

On perusal of the ranks obtained by the petitioners and respondents 6 to 9, it can be seen that except the third petitioner, who is a physically handicapped person and secured 72267 rank, respondents 6 to 9 secured ranks far below the ranks of the petitioners.

The learned counsel for the petitioners submits that fifth respondent college has not submitted the list of selected candidates for approval of third respondent and after first two lists, the fifth respondent college has picked up its own candidates giving a go bye to the merit and thereby denying admissions to the petitioners who are better placed than respondents 6 to 9. It is also stated that the management of the fifth respondent college without forwarding the third list for notifying the vacant seats, cannot fill up the said seats under the guise of spot admissions, which is contrary to the rules and schedule fixed by the Commissioner and Director of School Education. In view of the same, the entire selections made under spot admissions have to be set aside and the petitioners have to be given admissions.

The learned Government Pleader also submits that the third list has not been communicated to the third respondent, to enable him to notify the vacant seats for spot admission.

On the other hand, the learned counsel appearing for fifth respondent college submits that even in the third list, the candidates who secured better rank than the petitioners were admitted and for which the petitioners cannot make any grievance.

Since, no schedule is notified for spot admissions, all the Colleges which are imparting education in B.Ed. courses admitted the candidates by way of spot admissions for the left over seats as they will be left unfilled. It is also stated that had the petitioners appeared in the spot admission, they would have got admissions in the college, but since they have not participated in the spot admission, now they cannot seek admission contrary to the rules. It is stated that the sixth respondent who is the only candidate got admission in the spot admission and respondents 7 to 9 got admission under management quota and since the rules are silent and the schedule for spot admissions has not been fixed by the Commissioner and Director of School Education, there was no other way to the fifth respondent college, except to fill up the vacant seats.

As can be seen from the rules, all the Colleges are under obligation to forward third list to the concerned District Educational Officer and the same shall be made available in the website and the list should be displayed in the College notice board. In the present case, admittedly, this exercise has not been done by the fifth respondent college.

Unless the College forwards the third list to the concerned DEO, the Commissioner and Director of School Education cannot notify the date for spot admission of unfilled seats as per schedule for B.Ed. course. In view of the same, it is not open to the fifth respondent college to contend that since separate schedule for the vacant seats has not been announced by the Commissioner and Director of School Education, the college has admitted the students on its own.

It is now represented that the select list sent to the competent authority was already approved, and it is the second respondent who is the competent authority to approve the list of provisionally selected candidates for admission and has to consider the lapses committed by the fifth respondent college.

Having regard to the facts and circumstances of the case, respondents 1 to 3 are directed to consider the lapses committed by the fifth respondent College in giving admission to respondents 6 to 9 in the spot admissions and to take appropriate action against the fifth respondent college for the lapses so committed by denying admissions to the petitioners and to remedy the situation.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

A.GOPAL REDDY, J

Date: 15.9.2004.

DA

NOTE: Furnish C.C. by 21-9-2004.

B/o

DA

To

1 The Principal Secretary, Government of Andhra Pradesh, Education

(SE TRG.1) Department, Secretariat, Hyderabad.
2 The Secretary, A.P. State Council for Higher Education, Hyderabad.

3 The District Education Officer, Hyderabad District, Nampally

Hyderabad.
4 The Registrar, Osmania University, Hyderabad.
5 The Secretary and Correspondent, Anwarul Uloom College of

Education, Malakpet, Hyderabad.

6 Two CCs to the G.P. for Education, High Court of A.P.,

Hyderabad (OUT).

7 Two CD copies.